

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

| | | |
|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Criminal Action No. |
| |) | 12-00058-01-CR-W-GAF |
| ABNER FIGUEROA-DIAZ, |) | |
| |) | |
| Defendant. |) | |

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on May 23, 2012. Defendant Abner Figueroa-Diaz appeared in person and with Assistant Federal Public Defender Robert Kuchar. The United States of America appeared by Assistant United States Attorney Catherine Connelly.

I. BACKGROUND

On February 21, 2012, an indictment was returned charging defendant with possession with intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Connelly announced that she will be the trial counsel for the government. The case agent to be seated at counsel table is Errol Riggins, DEA Task Force Officer.

Mr. Kuchar announced that he will be the trial counsel for defendant Abner Figueroa-Diaz. Ron Ninemire, investigator, will assist.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Ms. Connelly announced that the government intends to call 14 witnesses without stipulations or 11 witnesses with stipulations during the trial.

Mr. Kuchar announced that defendant Abner Figueroa-Diaz intends to call no witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Ms. Connelly announced that the government will offer approximately 18 exhibits in evidence during the trial.

Mr. Kuchar announced that defendant Abner Figueroa-Diaz will offer no exhibits in evidence during the trial.

VI. DEFENSES

Mr. Kuchar announced that defendant Abner Figueroa-Diaz will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Kuchar stated this case is probably not for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody and chemists' reports.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 22, 2012, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by May 23, 2012;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, May 30, 2012;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, May 30, 2012. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on June 4, 2012.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
May 23, 2012

cc: Mr. Kevin Lyon

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the forthcoming trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, June 1, 2012. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. **The instructions shall be listed in the order they are to be given.**